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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,629	10/29/2001	Anthony C. Vrba	1001.1514101	9211

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EXAMINER

HO, UYEN T

ART UNIT PAPER NUMBER

3731

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,629

Applicant(s)

VRBA ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 29 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 31-34, 38-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/26/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 3/26/04 has been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Khosravi (6,361,546). Khosravi disclose a method of retrieving a cartridge from a body vessel lumen comprising the steps as claimed (see col. 6, line 63 to col. 7, line 60).

4. Claims 1, 3-8, 12, 35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Broome et al. (6,152,946). Broome et al. disclose a device including a filter cartridge having a frame portion and filter portion, a proximal region having a ridge for interface with retrieval device as claimed (see figures 11-12). Note: The introductory statement of intended use and all other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Broom et al.'s device which is capable of being used as claimed if one desires to do so. In regard to claim 1, applicants do not positively cited a retrieval device including an inflatable cuff.

9. Claims 1-12, 29, 35-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Green (6,485,501). Green discloses a filter system as 'claimed (fig. 28), comprising a

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filter cartridge comprising frame, filter membrane, ridge (372), radiopaque band (371) and a retrieval device (375) as claimed, comprising balloon (figure 30). The introductory statement of intended use and all other functional statements have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Green's filter system which is capable of being used as claimed if one desires to do so. Note: In regard to claim 1, applicants do not positively cited a retrieval device including an inflatable cuff. Green reference disclose a ridge (member 372), which is capable of interface with an inflatable cuff disposed on a retrieval device if one desired to do so.

Allowable Subject Matter

10. Claims 13-28 are allowed. Claims 31-34 and 38-42 are objected to as a rejected base claim, but would be allowable if rewritten in combination with other limitations of the claims being dependent upon independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to disclose or suggest a distal protection system comprising in combination, a catheter includes distally inflatable cuff and a distal protection device comprising a proximal region having a ridge for interface with the inflatable cuff, as claimed.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott or Shaver can be reached on 703-308-0858. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


(Jackie) Tan-Uyen T. Ho
Patent Examiner
Art Unit 3731

June 22, 2004